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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/473,740 | 12/28/1999 | HONGJIANG SONG | INTL-0327-US | 1399 |

7590 05/23/2003

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EXAMINER

VO, DON NGUYEN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2631 | |

DATE MAILED: 05/23/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------|------------------------|---------------------|
| Advisory Action | Application No. | Applicant(s) |
| | 09/473,740 | SONG, HONGJIANG |
| | Examiner | Art Unit |
| | DON N VO | 2631 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. The proposed amendment(s) will not be entered because:
 (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) they raise the issue of new matter (see Note below);
 (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
 4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See ATTACHMENT.
 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. Other: _____.

DON N VO
 Primary Examiner
 Art Unit: 2631

ATTACHMENT

The Request For Consideration filed on 5/8/03 has been considered but the examiner respectfully disagrees. It appears that the Applicant is misunderstanding the arguments that the examiner represented on his Final Office Action (paragraph 5 under heading **Response to Arguments**) mailed on 3/13/03. The section is reproduced below for the convenience of discussion:

Applicant traverses the rejections to claims 1-20 by mainly arguing that "*the Examiner relies on Kline [5,068,880] to allegedly teach detecting whether some bits indicates a synchronization field during buffering of bits to accommodate a difference between a first rate of incoming data and a second rate of outgoing data*" and therefor, failing to established a prima facie case of obviousness for claims 1, 8 and 15. The examiner respectfully disagrees. The examiner relies only on the teaching of "detecting whether some of the incoming bits indicate a synchronization field during the buffering of the incoming bits." See paragraph # 3 of the Office Action mailed 11/20/02. The Examiner did not rely on Kline for the teaching of buffering "to accommodate a difference between a first rate of incoming data and a second rate of outgoing data." The admitted prior art figure 1 and page 1, line 12-15 has such teaching. Based on the above rationale, it is believed that the combination of the admitted prior art and Kline is proper and therefor, the rejections are still maintained.

That is, the examiner relies on the admitted prior art for the teaching of "to accommodate a difference between a first rate of incoming data and a second rate of outgoing data" and relies on Kline only for the teaching of "detecting whether some of the incoming bits indicate a synchronization field during the buffering of the incoming bits." This is a reverse of what the applicant stated in paragraph 1 of the Request For Reconsideration. Therefore, the

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admitted prior art and Kline do not teach away from the combination as stated in paragraph 3 of the Request For Reconsideration.

In response to applicant's argument that there is no suggestion to combine the references as stated in paragraphs 2 and 4 of the Request For Reconsideration, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation of "to achieve high speed of transferring data" (as stated in section 3 of the Final Office Action mailed on 2/13/03) can be found in column 1, lines 12-15 of Kline.

Based on the above rationale, it is believed that the combination of the admitted prior art and Kline is proper and therefore, the rejections are still maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DON N VO whose telephone number is (703) 305-4885. The examiner can normally be reached on 8:30AM-5:00PM, Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (703) 305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.



DON N VO
Primary Examiner
Art Unit 2631

May 20, 2003